

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MARILYN A. SHELBY,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 2:14-cv-04244
)	
THE CURATORS OF THE UNIVERSITY)	
OF MISSOURI,)	JURY TRIAL DEMANDED
FRANKIE MINOR, an Individual,)	
LOUISE WELSCHER, an Individual, and)	
KAREN TOUZEAU, an Individual,)	
)	
Defendants.)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT OUT OF TIME, REQUEST TO EXTEND DISCOVERY
SCHEDULE AND MOTION FOR CONTINUANCE**

COME NOW Defendants, by and through undersigned counsel, and for their response to Plaintiff's motion for leave to file amended complaint out of time, state as follows:

Plaintiff seeks leave of court to file an amended complaint out time. Plaintiff filed her motion on June 30, 2015. Pursuant to the Court's May 14, 2015 order sustaining Defendant's September 17, 2014 motion for more definite and certain, an amended complaint should have been filed on or before Monday, June 15, 2015 (the 30-day deadline having expired on Saturday, June 13).

Defendants will leave this issue for determination by the Court in its discretion.

If the Court allows Plaintiff to file her amended complaint out of time, Defendants request the Court to amend the scheduling order. The parties have served Rule 26 disclosures and have engaged in significant written discovery. The parties have not yet conducted any deposition discovery. Defendants did not do because of the uncertainty of the final form of

Plaintiff's Complaint during the pendency of Defendant's motion. In the event the Court sustains Plaintiff's motion, the complaint will then be certain; Defendants can file their answers and proceed with depositions.

The scheduling order the parties agreed to and which the Court approved provides that discovery closes on September 1, 2015. Defendants are concerned that the parties will not be able to complete the remaining discovery under the current scheduling order. Accordingly, Defendants suggest that the court amend the scheduling order to reflect new deadlines for the close of discovery and filing of dispositive motions. Defendants suggest the fact that Plaintiff seeks leave to file her proposed amended complaint approximately four months after the original deadline to amend pleadings constitutes sufficient "good cause" to amend the scheduling order under Fed.R.Civ.Proc.16(b)(4). Defendants believe that extending the discovery deadline for the same period of time (four months, to January 1, 2016) would be adequate.

In order to accommodate the anticipated amended scheduling order deadlines, Defendants also request the court to continue the trial setting. Trial is scheduled to commence on March 21, 2016. A continuance will permit the parties to complete discovery, file post-discovery and dispositive motions as might be warranted, and allow the Court sufficient time to consider and rule on any such motions before the trial date.

WHEREFORE, Defendants respectfully suggest that in the event the Court sustains Plaintiff's motion, the Court grant Defendants 20 days within which to respond to the Complaint, enter an amended scheduling order, continue the case from the current trial setting, and for such other and further relief as the Court deems just and proper in the premises.

Respectfully submitted,

/s/ Jeffrey H. Blaylock

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that I have, on this 13th day of July, 2015, electronically filed a copy of the foregoing pleading with the United States District Court for the Western District of Missouri, Central Division, by filing same on the court's ECF system.

/s/ Jeffrey H. Blaylock

JEFFREY H. BLAYLOCK